UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA	:	
	:	
V.	:	**CR. No. 05- 114S**
	:	
ROBERT VIRUET	:	

GOVERNMENT'S RESPONSE TO DEFENDANT'S
MOTION FOR CONTINUATION OF SENTENCING DATE

Now comes the United States of America, by and through its attorneys, Robert Clark Corrente, United States Attorney, and Stephanie S. Browne, Assistant United States Attorney, and hereby responds to defendant's Motion for Continuance of Sentencing Date.

Defendant has filed the instant motion in order to continue his sentencing, currently scheduled for August 31, 2007, until after November 1, 2007. His ground for this motion is the anticipated, though not certain, change in the Sentencing Guidelines as they affect sentencing for crack cocaine violations. This motion should be denied.

The defendant asks that his case be continued again because he believes the law might change. The defendant claims that the proposed amendment to the crack cocaine sentencing guidelines that may take affect on November 1, 2007 support his motion. The sentencing guidelines amendment at issue is merely proposed, will not go into effect until November 1, 2007 if at all, and may be rejected or modified by Congress in the interim. See 28 U.S.C. § 994(p).

More significantly, Viruet has failed to consider that his sentence will be determined by two statutorily required minimum terms of imprisonment. Viruet faces a mandatory minimum sentence on Count 1 of 10 years pursuant to 21 U.S.C. §§ 841(a)(1) and (b)(1)(A). Likewise, he faces a mandatory consecutive sentence of 5 years on Count 3 pursuant to 21 U.S.C. §

924(c)(1)(A). Thus, by law he faces a minimum sentence of 15 years or 180 months. Viruet's guideline range as calculated by Probation using the current guidelines is 121 to 151 months on Count 1 and 60 months on Count 3, yielding a total range of 181 to 231 months. PSR ¶¶ 51, 52. Accordingly, whether the Sentencing Guidelines are changed with respect to crack cocaine, Viruet's sentence will be at least 180 months based on the requirements of the statutes.

Respectfully submitted,

UNITED STATES OF AMERICA,

By its Attorneys,

ROBERT CLARK CORRENTE
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of August, 2007, I caused the with Government's response to Defendant's Motion for Credit to Sentence to be electronically filed with the United States District Court for the District of Rhode Island, using the CM/ECF System. The following participant has received notice via ordinary mail and postage prepaid, to:

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Donald C. Wyatt Detention Facility
950 High Street
Central Falls, Rhode Island 02863

/s/ Stephanie S. Browne

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